IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.2663 OF 2004
IN
FIRST APPEAL NO.15 OF 2005

Assistant Commissioner,H/West Ward
Municipal Corporation of Greater Mumbai ...Applicant
vs.
Ratan Sudam Karande and Anr. ...Respondents

Mr.J.J.Xavier i/b Ms V.K.Khatu for the Applicant
Ms Kunda Samant for the Respondent No.1
Mr.Amit Sale for Respondent No.2.

CORAM: A.S.OKA,J.
DATE : FEBRUARY 13,2007.

P.C.:

1. Heard Advocate for the Applicant and the Advocate for the first Respondent. The submission of the Advocate for the first Respondent is that in view of the section 12 of the Workmen's Compensation Act,1923, the Applicant can always recover the amount from its contractor and therefore, there is no question of granting stay. The Advocate for the Applicant pointed out that the challenge is also to the quantum of compensation as no evidence was led regarding the age of the deceased.

2.Considering the provisions of section 12 of the said Act of 1923 and the facts and circumstances of the case, Civil Application is disposed of by passing the following order :

i) Out the amount deposited by the Applicant, the first Respondent will be entitled to withdraw a sum of Rs.3,00,000/- without any security. The withdrawal of the amount will be subject to final outcome of the

suit.

ii) Rest of the amount deposited by the Applicant shall be invested in fixed deposit in any nationalised bank initially for a period of three years and thereafter the fixed deposit shall be renewed on yearly basis till the final disposal of the Appeal.

iii) The first Respondent will be entitled to withdraw 50% of the amount of interest accrued on the said fixed deposit without giving any security.

iv) The order for disbursement of the invested amount and balance interest will be passed at the time of final disposal of the Appeal.

JUDGE